



August, 2012

Boards of Assessors  
City Auditors and Town Accountants  
Mayors and Selectmen

The Bureau of Local Assessment (BLA) and Bureau of Accounts (BOA) stress the following items in preparation of the tax rate and/or pro forma recap for FY2013.

*The following items are new for FY2013:*

- **Overlay Provisions for Telephone Valuation**

On March 19, 2012, the Appeals Court ruled in the appeal of the Verizon New England Consolidated Valuation cases, ATB 2009-851 Docket No. C273560 (October 1, 2009). Verizon New England, Inc. v. City of Boston, 81 Mass. App. Ct. 444 (2012). That appeal challenged the ATB's decision that Verizon, a corporation, was taxable for its (1) poles and wires over public ways before FY2010 and (2) CWIP. The Appeals Court overruled the ATB's decision that poles and wires owned by a telephone corporation and located over public ways were subject to tax before FY2010. On May 3, 2012, the Supreme Judicial Court denied the further appellate review sought by the municipal parties on that issue.

As you know, beginning in FY2010, M.G.L. c. 59, § 18 has expressly provided that those poles and wires are taxable.

The Commissioner began centrally valuing telephone company CWIP in FY2009. The Appeals Court decided that the statute does not require the company's property to be "in service" before it becomes taxable. The matter was remanded to the ATB to determine whether and to what extent the valuation of the company's CWIP consisted of only the type of property taxable to the company. Under the Court's decision, any portion of a corporation's CWIP attributable to poles and wires over public ways would not be taxable for FY2009, but would be taxable in subsequent years. No party in the case sought further appellate review on the CWIP ruling.

As a result of the Verizon decision, assessors do not need to set aside additional amounts in the FY2013 overlay to cover the valuation of CWIP, but they should ensure that it is sufficient to cover any company appeals of the Commissioner's valuations. With respect to the overlays of prior years, the assessors should expect to have abatement exposure for taxes assessed on poles and wires over public ways in FY2009 and some portion of CWIP beginning in FY2009.

- Because of the unusual storms that affected communities between June and October 2011, many communities were granted permission by the Director of Accounts to expend in excess of appropriation under G.L. c. 44, § 31. Emergency expenditures made prior to July 1, 2011 should have been provided for on the FY2012 tax rate recap. Emergency expenditures made after July 1, 2011 may have been provided for on the FY2012 tax rate recap, but must be provided for on the FY2013 tax rate recap (less any FEMA/MEMA reimbursements received). Funds borrowed for an emergency purpose is considered being provided for.
- Communities having voted a Workers' Compensation Fund under either G.L. c. 40, § 13A or § 13C or an Unemployment Compensation Fund under c. 40, § 5E and having a fund deficit as of June 30, 2012 must provide for the deficit on the FY2013 tax rate recap.
- Any increase in enterprise fund indirect costs from FY2012 reported on schedule A-2 should be supported by documentation. In the past, the Bureau has recommended that every community with an enterprise fund establish a written, internal policy regarding indirect cost allocation and should review this policy annually. The Director of Accounts may reject any community's methodology, written or otherwise, as unreasonable for tax rate setting purposes.
- For Gateway LA-5 submission purposes, the Bureau of Accounts will allow any local official with Gateway check-off authority to do so on-behalf of the Board of Selectmen provided they have been given such authority by the board. Indication of this authority should be typed in the comment box. If this option is chosen, a hard copy of the LA-5 signed by the Board of Selectmen must still accompany other recap supporting documentation submitted to the Bureau of Accounts.

*The following items are substantially the same as in FY2012:*

### **Local Option Meals Excise Tax**

For FY2013, estimate this revenue source if applicable as an Other Excise Estimated Receipt on page 2 of the tax rate or pro forma recap.

For cities and towns that adopted this local option effective in FY2011, up to 12 months of revenues may be estimated for FY2013. If adopted effective July 1, 2012, estimate up to 10 months of revenues for FY2013. All other communities should estimate based upon the [Meals Tax Timetable](#) and [Meals Excise Revenue Estimates](#) on the Division of Local Services' (DLS) website.

### **Community Preservation Act**

A city or town imposing the CPA surcharge for the first time must submit the CPA surcharge estimate worksheet found in the FY2013 tax rate instruction book.

For purposes of completing schedule A-4, part 1a, state trust fund distribution, BOA will accept no amount greater than 22% of the FY2012 net (after abatements) surcharge committed unless either:

- the actual FY2013 distribution calculated and published by DLS (by law no later than October 15<sup>th</sup>) shows a greater amount;
- reasonable supporting documentation submitted can support a greater amount.

### **Reporting Rescission of FY2012 Appropriations from Tax Levy**

Appropriation reductions from the tax levy as a funding source voted after FY2012's tax rate was certified should be reported on page 4 of the FY2013 tax rate or pro forma recap column (b), first in the amount of the initial appropriation followed by a negative for the same amount. In this way, FY2012 action will offset and FY2013 action will not be affected.

### **BOA's Annual March Budget Bulletin**

In March of 2012, the Bureau issued its annual budget [Bulletin \(2012-02B\)](#) to local officials indicating BOA's position on a variety of FY2013 tax rate/pro forma issues from revenue and expenditure budgeting to enterprise fund matters to emergency spending.

### **Appropriating for Enterprise Fund Indirect Costs from the General or Other Fund**

Per [IGR 08-101](#), indirect costs are generally appropriated as part of the general fund operating budget and are allocated to the enterprise fund as reported on schedule A-2. Do not appropriate these costs in both the General Fund operating budget and in the enterprise fund budget. Local financial officials may wish to show the public all costs of the enterprise fund, but should not duplicate their appropriation. Therefore, reporting of enterprise fund estimated receipts on page 3 of the tax rate or pro forma recap to offset such duplication should not occur.

### **FEMA/MEMA Reimbursement for Storm Related Damage**

The following shall apply to FEMA/MEMA storm reimbursements:

Expenses paid as of June 30, 2012 (1) given Chapter 44 §31 approval by the Director of Accounts, (2) not provided for by borrowing or by appropriation and (3) not reimbursed by the time the FY2013 tax rate recap is submitted to the Bureau of Accounts for FY2013 tax rate certification must be provided for on page 2, Part IIB of the FY2013 recap.

Expenses paid on or after July 1, 2012 (1) given Chapter 44 §31 approval by the Director of Accounts (2) not provided for by borrowing or by appropriation and (3) not reimbursed by the time the FY2013 tax rate recap is submitted to the Bureau of Accounts for FY2013 tax rate certification may be provided for on page 2, Part IIB of the FY2013 recap. The deficit must be added to page 2, Part IIB of the FY2014 recap if not otherwise provided for.

### **Gateway: Tax Rate/Pro Forma Submission**

DLS encourages submission of applicable forms through the Gateway system. When submitting forms via Gateway, BOA and BLA suggest that forms be completed, printed, signed and filed locally (for audit purposes) as well. Forward to BOA or BLA only supporting documentation not entered into Gateway.

### **Gateway: “On Behalf” Signatures**

For FY2013 tax rate certification purposes, BOA and BLA will permit the following local officials to electronically sign (use of check-off box) tax rate recap and related forms on Gateway on-behalf of others:

- deputy or assistant assessors for the board of assessors;
- assistant city or town accountant for the city or town accountant;
- assistant clerk for the city or town clerk;
- clerk of the board of selectmen, or similar official, for the board of selectmen (see page 2 for new item);
- clerk for the city or town council, or similar official, for the city or town council.

The conditions for allowing these officials to sign on-behalf are that:

- the board/council has approved that the above indicated officials do this;
- this Gateway signature authority only extends to the tax rate recap and related forms;
- actual signed copies remain on file locally and the appropriate officials include this as a statement in the comment box below their electronic signature.

Note: The deputy or assistant assessor cannot sign on-behalf of a board of assessors' member who is deemed by DLS to be either not qualified to classify or unqualified.

Bureau of Accounts officials may electronically sign on behalf of any of the above indicated officials in extraordinary situations.

## Auto E-Mail for Tax Rate Approval

Tax rate/pro forma approval letters will be e-mailed to assessors immediately upon approval, provided an e-mail address is reported in DLS' Local Officials Directory. Assessors are advised to check their e-mail account in this directory and notify the city, town or district clerk if it is incorrect.

An electronically signed copy of the FY2013 tax rate/pro forma recap will be placed on the DLS website on the same day the e-mail approval notification is sent after the form has been approved by BOA.

## Massachusetts School Building Authority (MSBA)

For FY2013, enter reimbursements from this authority on page 2, part IIIa, line 2 of the tax rate or pro forma recap. The [FY2013 Estimated Receipts Worksheet](#) will assist you in entering the proper estimate. FY2013 reimbursements can be found on [MSBA's website](#).

For FY2013 tax rate and/or pro forma recap purposes, BOA will allow as an estimated receipt an amount (a) that is reported on MSBA's website, plus (b) any additional amount that is indicated via separate correspondence from MSBA in excess of the website amount. Be sure not to duplicate any estimated payment.

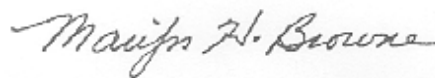
Review [IGR 08-102](#) for instructions on the receipt of payments and how to properly reserve/apply these payments whether or not a debt exclusion has already been voted.

Your BOA and BLA field representatives are ready to assist city, town and district officials in this important process. If you have any questions, please do not hesitate to contact them.

Sincerely,



Gerard D. Perry  
Director of Accounts



Marilyn H. Browne, Chief  
Bureau of Local Assessment